

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ORLANDO LEWAYNE PILCHER

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:09-cv-161-DCB-MTP

ROBERT FENTON

DEFENDANT

ORDER

This cause is before the Court on the Plaintiff's Motion to Alter or Amend Judgment [docket entry no. 77]. The judgment which the Plaintiff seeks to alter dismissed his case with prejudice after this Court adopted the Magistrate Judge's Report and Recommendation that the Defendant's Motion for Summary Judgment be granted. The Plaintiff did not object to the Report and Recommendation. After the Court issued its final judgment dismissing the case, the Plaintiff notified the Court that he had been transferred to a different prison and had not received a copy of the Report and Recommendation until after the deadline for objections had passed. Accordingly, though Plaintiff now moves to Alter or Amend the Court's Judgment, the Court will treat the Motion as an objection to the Report and Recommendation.

At issue is the Plaintiff's complaint against a guard in the prison where the Plaintiff was formerly incarcerated, alleging that the guard "deliberately" shot the Plaintiff in the head during a prison riot. The Magistrate Judge recommended that the Defendant's motion for summary judgment on the basis of qualified immunity be

granted because the undisputed evidenced showed that the Defendant used force in a good-faith effort to restore discipline at the prison. Baldwin v. Stalder, 137 F.3d 836, 838 (5th Cir. 1998). The Plaintiff does not assert specific objections to the legal and factual conclusions in the Report and Recommendation; instead, he asserts generally that he is "not satisfied" with the judgment and that his case was "mishandled." Nevertheless, after a de novo review of the Magistrate Judge's Report and Recommendation, the Court is unable to find any error with the Magistrate Judge's findings. The Court is satisfied that the Magistrate Judge has undertaken an extensive examination of the issues in this case and has issued a thorough opinion. Accordingly,

IT IS HEREBY ORDERED that the Plaintiff's Motion to Alter or Amend Judgment [docket entry no. 77] is DENIED.

SO ORDERED AND ADJUDGED this the 30th day of September 2010.

s/ David Bramlette

UNITED STATES DISTRICT JUDGE